

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Case No. 2:18-CR-129 JCM (DJA)

Plaintiff(s),

ORDER

v.

BENJAMIN COTTMAN and
MELVIN BROWN,

Defendant(s).

Presently before the court is Kevin R. Stolworthy's motion to withdraw as attorney for defendant Benjamin Cottman. (ECF No. 210).

On December 11, 2020, Stolworthy was appointed to represent Cottman. (ECF No. 161). Stolworthy is Cottman's fourth appointed attorney in this case. (*See* ECF Nos. 58, 123, 161).

Cottman recently appeared before the court on October 13, 2021, at a competency hearing where he was determined competent to proceed with sentencing. (ECF No. 206). The sentencing hearing is scheduled for December 17, 2021, at 10:00 a.m.

Since his appointment, Stolworthy filed a supplement to Cottman's sentencing memorandum briefing the court on recent changes in case law regarding the criminal enhancement issue. (ECF No. 210 at 2). The bulk of Cottman's sentencing briefing was completed by his antecedent attorney, Lisa Rasmussen. (ECF No. 161 at 1–2).

Stolworthy files this motion to withdraw due to a "break-down of the attorney-client relationship." (ECF No. 210 at 1). For instance, Cottman refused evaluation by a mental health provider because the doctor was referred by Stolworthy and Cottman did not want the

1 results of the evaluation shared with Stolworthy. (ECF No. 176 at 2). Cottman also advised
2 the court at his competency hearing that “he got information that [Stolworthy] wanted to hurt
3 him.” (ECF No. 210 at 2). Based on these statements and actions, Stolworthy does not
4 believe he can adequately represent Cottman. (*Id.* at 2).

5 Local Rule IA 11-6(e) provides that “[e]xcept for good cause shown, no withdrawal
6 or substitution will be approved if it will result in delay of discovery, the trial, or any hearing
7 in the case.” The sentencing hearing on December 17, 2021, will not be delayed by
8 Stolworthy’s withdrawal. Cottman has already been deemed competent for sentencing.
9 Extensive briefing on the sentencing issues is on file with the court. Two months remain
10 before the sentencing hearing. A prompt appointment of new CJA counsel will provide
11 adequate time to prepare for sentencing. *See* 18 U.S.C. §§ 3006A, et seq. With good cause
12 appearing, Stolworthy’s motion to withdraw is granted.

13 Accordingly,

14 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Stolworthy’s motion
15 to withdraw (ECF No. 210) be, and the same hereby is, GRANTED.

16 IT IS FURTHER ORDERED that the CJA Administrator shall arrange for the
17 appointment of a CJA panel attorney to represent Cottman at sentencing. Stolworthy will
18 turn over his file/discovery to CJA counsel upon notification that counsel has been
19 appointed.

20 DATED October 20, 2021.

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UNITED STATES DISTRICT JUDGE
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